

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CUPP CYBERSECURITY, LLC and
CUPP COMPUTING AS,

Plaintiffs,

v.

TREND MICRO, INC.,
TREND MICRO AMERICA, INC., and
TREND MICRO INCORPORATED,

Defendants.

Case No. 3:18-cv-01251-M

(Consolidated with Civil Action No. 3:20-cv-
03206-M)

[TREND MICRO'S PROPOSED] VERDICT FORM

JURY QUESTIONS

QUESTION NO. 1: DIRECT INFRINGEMENT

Has CUPP proven by a preponderance of the evidence that Trend Micro directly infringes any of the following claims? (Answer “yes” or “no” for each product under each claim)

1a. Claim 16 of the '272 Patent

- i. Mobile Security for Enterprise _____
- ii. The Worry-Free products _____
- iii. Smart Protection Suites _____

1b. Claim 7 of the '079 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. The Worry-Free products _____
- iv. Smart Protection Suites _____

1c. Claim 11 of the '202 Patent

- i. Portable Security 2 and 3 _____

1d. Claim 21 of the '202 Patent

- i. Office Scan 10.6 or later _____

1e. Claim 11 of the '444 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Apex One with XDR _____
- iv. XDR for Users _____

- v. The Worry-Free products _____
- vi. Smart Protection Suites _____

1f. Claim 21 of the '444 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Apex One with XDR _____
- iv. XDR for Users _____
- v. The Worry-Free products _____
- vi. Smart Protection Suites _____

1g. Claim 17 of the '400 Patent

- i. Portable Security 2 and 3 _____
- ii. Office Scan / Apex One _____
- iii. The Worry-Free products _____
- iv. Smart Protection Suites _____

1h. Claim 1 of the '834 Patent

- i. Deep Security _____
- ii. Cloud One _____
- iii. Deep Discovery Analyzer _____
- iv. Deep Discovery Inspector _____
- v. Deep Discovery Email Inspector _____

1i. Claim 11 of the '462 Patent

- i. Mobile Security for Enterprise _____

- ii. Control Manager / Apex Central _____
- iii. Vision One / XDR, Managed XDR _____
- iv. The Worry-Free products _____
- v. Smart Protection Suites _____

1j. Claim 1 of the '421 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Vision One / XDR, Managed XDR _____
- iv. The Worry-Free products _____
- v. Smart Protection Suites _____

Please proceed to Question No. 2.

QUESTION NO. 2: INDIRECT INFRINGEMENT

Has CUPP proven by a preponderance of the evidence that Trend Micro has indirectly infringed any of the following claims? (Answer “yes” or “no” for each product under each claim)

2a. Claim 16 of the '272 Patent

- i. Mobile Security for Enterprise _____
- ii. The Worry-Free products _____
- iii. Smart Protection Suites _____

2b. Claim 21 of the '202 Patent

- i. Office Scan 10.6 or later _____

2c. Claim 11 of the '444 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Apex One with XDR _____
- iv. XDR for Users _____
- v. The Worry-Free products _____
- vi. Smart Protection Suites _____

2d. Claim 21 of the '444 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Apex One with XDR _____
- iv. XDR for Users _____
- v. The Worry-Free products _____
- vi. Smart Protection Suites _____

2e. Claim 17 of the '400 Patent

- i. Office Scan / Apex One _____
- ii. The Worry-Free products _____
- iii. Smart Protection Suites _____

2f. Claim 1 of the '834 Patent

- i. Deep Security _____
- ii. Cloud One _____
- iii. Deep Discovery Analyzer _____
- iv. Deep Discovery Inspector _____
- v. Deep Discovery Email Inspector _____

2g. Claim 11 of the '462 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Vision One / XDR, Managed XDR _____
- iv. The Worry-Free products _____
- v. Smart Protection Suites _____

2h. Claim 1 of the '421 Patent

- i. Mobile Security Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Vision One / XDR, Managed XDR _____
- iv. The Worry-Free products _____
- v. Smart Protection Suites _____

Please proceed to Question No. 3.

QUESTION NO. 3: JOINT INFRINGEMENT

Has CUPP proven by a preponderance of the evidence that Trend Micro has jointly infringed any of the following claims? (Answer “yes” or “no” for each product under each claim)

3a. Claim 16 of the '272 Patent

- i. Mobile Security for Enterprise _____
- ii. The Worry-Free products _____
- iii. Smart Protection Suites _____

3b. Claim 21 of the '202 Patent

- i. Office Scan 10.6 or later _____

3c. Claim 11 of the '444 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Apex One with XDR _____
- iv. XDR for Users _____
- v. The Worry-Free products _____
- vi. Smart Protection Suites _____

3d. Claim 21 of the '444 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Apex One with XDR _____
- iv. XDR for Users _____
- v. The Worry-Free products _____
- vi. Smart Protection Suites _____

3e. Claim 1 of the '834 Patent

- i. Deep Security _____
- ii. Cloud One _____
- iii. Deep Discovery Analyzer _____
- iv. Deep Discovery Inspector _____
- v. Deep Discovery Email Inspector _____

3f. Claim 11 of the '462 Patent

- i. Mobile Security for Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Vision One / XDR, Managed XDR _____
- iv. The Worry-Free products _____
- v. Smart Protection Suites _____

3g. Claim 1 of the '421 Patent

- i. Mobile Security Enterprise _____
- ii. Control Manager / Apex Central _____
- iii. Vision One / XDR, Managed XDR _____
- iv. The Worry-Free products _____
- v. Smart Protection Suites _____

Please proceed to Question No. 4.

QUESTION NO. 4: INVALIDITY – OBVIOUSNESS

Has Trend Micro proven by clear and convincing evidence that any claim is invalid as obvious?
(Answer “yes” or “no” for each claim below regardless of your answers to Question Nos. 1-3)

- 4a.** Claim 16 of the '272 Patent: _____
- 4b.** Claim 7 of the '079 Patent: _____
- 4c.** Claim 21 of the '202 Patent: _____
- 4d.** Claim 11 of the '444 Patent: _____
- 4e.** Claim 21 of the '444 Patent: _____
- 4f.** Claim 17 of the '400 Patent: _____
- 4g.** Claim 1 of the '834 Patent: _____
- 4h.** Claim 11 of the '462 Patent: _____
- 4i.** Claim 1 of the '421 Patent: _____

Please proceed to Question No. 5.

QUESTION NO. 5: INVALIDITY – WRITTEN DESCRIPTION

Has Trend Micro proven by clear and convincing evidence that Claim 11 of the '202 Patent is invalid for lack of written description? (Answer “yes” or “no” regardless of your answers to Question Nos. 1-4)

6. Claim 11 of the '202 Patent: _____

Please proceed to Question No. 6.

QUESTION NO. 6: DAMAGES

If you find any patent claim(s) infringed by Trend Micro and not invalid (that is to say you answered “yes” to one or more of Question Nos. 1-3, and “no” for all such infringed claims in Question Nos. 4-5), then proceed to answering this question on damages.

Otherwise, skip Question Nos. 6-7 and proceed to the end.

What total amount of reasonable royalty has CUPP proven by preponderance of the evidence that it is entitled to recover?

Select One:

(a) \$ _____ through the date of trial based on a ____% royalty rate.

-OR-

(b) \$ _____ through the date of trial based on \$ ____ per unit.

-OR-

(c) One-time payment of \$ _____ for the life of the patent(s) you found to be valid and infringed.

Please proceed to Question No. 7.

QUESTION NO. 7: WILLFUL INFRINGEMENT

If you found any one of Claim 17 of the '400 Patent, Claim 1 of the '834 Patent, Claim 11 of the '462 Patent, or Claim 1 of the '421 Patent infringed by Trend Micro and not invalid (that is to say, if you answered "yes" to any one of Question 1g-1j, Questions 2e-2h, Question 3e-3g, and you answered "no" for all such claims in Question No. 4), then proceed to answering this question on willful infringement.

Did CUPP prove by a preponderance of evidence that Trend Micro willfully infringed the following patent claims? (Answer "yes" or "no" for only the claims that you found were infringed and not invalid)

7a. Claim 17 of the '400 Patent: _____

7b. Claim 1 of the '834 Patent: _____

7c. Claim 11 of the '462 Patent: _____

7d. Claim 1 of the '421 Patent: _____

Please ensure you have answered all of the relevant questions completely and correctly, then the foreperson should sign and date the Verdict of the Jury.

VERDICT OF THE JURY

We, the jury, have answered the above and foregoing questions as indicated, and herewith return the same into Court as our verdict.

Dated: November __, 2022

FOREPERSON